

1-1 By: Thompson of Harris (Senate Sponsor - Carona) H.B. No. 2095
 1-2 (In the Senate - Received from the House April 15, 2013;
 1-3 April 25, 2013, read first time and referred to Committee on
 1-4 Business and Commerce; May 1, 2013, reported favorably by the
 1-5 following vote: Yeas 6, Nays 0; May 1, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9			X	
1-10			X	
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the regulation of barbering and cosmetology;
 1-20 authorizing fees.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 1601.001(a), Occupations Code, is
 1-23 amended by adding Subdivision (5) to read as follows:

1-24 (5) "Dual shop" means a shop owned, operated, or
 1-25 managed by a person holding a dual barber and beauty shop license
 1-26 issued under Chapter 1603.

1-27 SECTION 2. Section 1601.260, Occupations Code, is amended
 1-28 by adding Subsection (c) to read as follows:

1-29 (c) A person holding a student permit may shampoo or
 1-30 condition a person's hair in a facility licensed under this chapter
 1-31 or Chapter 1603. The barber school in which the permit holder is
 1-32 enrolled may not receive compensation for services performed under
 1-33 this subsection.

1-34 SECTION 3. Section 1601.261, Occupations Code, is amended
 1-35 by adding Subsection (f) to read as follows:

1-36 (f) This section applies only to a person who holds a permit
 1-37 under this section issued to the person before September 1, 2013.

1-38 SECTION 4. Section 1601.301, Occupations Code, is amended
 1-39 to read as follows:

1-40 Sec. 1601.301. PERMIT REQUIRED. (a) A person may not own,
 1-41 operate, or manage a barbershop, dual shop, or specialty shop
 1-42 unless the person holds the appropriate permit.

1-43 (b) Not later than the third day after the date the shop
 1-44 opens, a person who owns, operates, or manages a barbershop, dual
 1-45 shop, or specialty shop must submit an application to the
 1-46 department for an appropriate permit for each shop, accompanied by
 1-47 a fee set by commission rule.

1-48 (c) A person who owns, operates, or manages a barbershop,
 1-49 dual shop, or specialty shop may employ a person holding a student
 1-50 permit under Section 1601.260 to shampoo or condition a person's
 1-51 hair.

1-52 SECTION 5. Section 1601.353, Occupations Code, is amended
 1-53 to read as follows:

1-54 Sec. 1601.353. REQUIRED FACILITIES AND EQUIPMENT. The
 1-55 department may approve an application for a permit for a barber
 1-56 school if the school:

1-57 (1) is located in:

1-58 (A) a municipality with a population of more than
 1-59 50,000 that has a building of permanent construction containing at
 1-60 least 2,000 square feet of floor space, including classroom and
 1-61 practical areas, covered in a hard-surface floor-covering of tile

2-1 or other suitable material; or
 2-2 (B) a municipality with a population of 50,000 or
 2-3 less or an unincorporated area of a county that has a building of
 2-4 permanent construction containing at least 1,000 square feet of
 2-5 floor space, including classroom and practical areas, covered in a
 2-6 hard-surface floor-covering of tile or other suitable material;
 2-7 (2) has the following equipment:
 2-8 (A) at least 10 student workstations that include
 2-9 a chair that reclines, a back bar, and a wall mirror;
 2-10 (B) a sink behind every two workstations;
 2-11 (C) ~~[a liquid sterilizer for each workstation,~~
 2-12 ~~[(D)]~~ adequate lighting for each room;
 2-13 (D) ~~[(E)]~~ at least 10 classroom chairs and other
 2-14 materials necessary to teach the required subjects; and
 2-15 (E) ~~[(F)]~~ access to permanent restrooms and
 2-16 adequate drinking fountain facilities; and
 2-17 (3) meets any other requirement set by the commission.
 2-18 SECTION 6. Subchapter J, Chapter 1601, Occupations Code, is
 2-19 amended by adding Section 1601.455 to read as follows:
 2-20 Sec. 1601.455. SERVICE AT UNLICENSED LOCATION. (a) In this
 2-21 section, "licensed facility" means the premises of a place of
 2-22 business that holds a license, certificate, or permit under this
 2-23 chapter or Chapter 1603.
 2-24 (b) A person holding a license, certificate, or permit under
 2-25 this chapter may perform a service within the scope of the license,
 2-26 certificate, or permit at a location other than a licensed facility
 2-27 for a client who, because of illness or physical or mental
 2-28 incapacitation, is unable to receive the services at a licensed
 2-29 facility.
 2-30 (c) An appointment for a service performed under this
 2-31 section must be made through a licensed facility.
 2-32 SECTION 7. Section 1602.001, Occupations Code, is amended
 2-33 by adding Subdivision (3-a) to read as follows:
 2-34 (3-a) "Dual shop" means a shop owned, operated, or
 2-35 managed by a person holding a dual barber and beauty shop license
 2-36 issued under Chapter 1603.
 2-37 SECTION 8. Section 1602.002(a), Occupations Code, is
 2-38 amended to read as follows:
 2-39 (a) In this chapter, "cosmetology" means the practice of
 2-40 performing or offering to perform for compensation any of the
 2-41 following services:
 2-42 (1) treating a person's hair by:
 2-43 (A) providing any method of treatment as a
 2-44 primary service, including arranging, beautifying, bleaching,
 2-45 cleansing, coloring, cutting, dressing, dyeing, processing,
 2-46 shampooing, shaping, singeing, straightening, styling, tinting, or
 2-47 waving;
 2-48 (B) providing a necessary service that is
 2-49 preparatory or ancillary to a service under Paragraph (A),
 2-50 including bobbing, clipping, cutting, or trimming; or
 2-51 (C) cutting the person's hair as a separate and
 2-52 independent service for which a charge is directly or indirectly
 2-53 made separately from charges for any other service;
 2-54 (2) ~~[weaving or]~~ braiding a person's hair;
 2-55 (3) shampooing and conditioning a person's hair;
 2-56 (4) servicing a person's wig or artificial hairpiece
 2-57 on a person's head or on a block after the initial retail sale and
 2-58 servicing in any manner listed in Subdivision (1);
 2-59 (5) treating a person's mustache or beard by
 2-60 arranging, beautifying, coloring, processing, styling, or
 2-61 trimming;
 2-62 (6) cleansing, stimulating, or massaging a person's
 2-63 scalp, face, neck, or arms:
 2-64 (A) by hand or by using a device, apparatus, or
 2-65 appliance; and
 2-66 (B) with or without the use of any cosmetic
 2-67 preparation, antiseptic, tonic, lotion, or cream;
 2-68 (7) beautifying a person's face, neck, or arms using a
 2-69 cosmetic preparation, antiseptic, tonic, lotion, powder, oil,

- 3-1 clay, cream, or appliance;
- 3-2 (8) administering facial treatments;
- 3-3 (9) removing superfluous hair from a person's body
- 3-4 using depilatories, preparations, or tweezing techniques;
- 3-5 (10) treating a person's nails by:
- 3-6 (A) cutting, trimming, polishing, tinting,
- 3-7 coloring, cleansing, or manicuring; or
- 3-8 (B) attaching false nails;
- 3-9 (11) massaging, cleansing, treating, or beautifying a
- 3-10 person's hands or feet; ~~[or]~~
- 3-11 (12) applying semipermanent, thread-like extensions
- 3-12 composed of single fibers to a person's eyelashes; or
- 3-13 (13) weaving a person's hair.

3-14 SECTION 9. Section 1602.051, Occupations Code, is amended
3-15 to read as follows:

3-16 Sec. 1602.051. BOARD; MEMBERSHIP. (a) The Advisory Board
3-17 on Cosmetology consists of nine ~~[seven]~~ members appointed by the
3-18 presiding officer of the commission, with the commission's
3-19 approval, as follows:

- 3-20 (1) one member who holds a license for a beauty shop
- 3-21 that is part of a chain of beauty shops;
- 3-22 (2) one member who holds a license for a beauty shop
- 3-23 that is not part of a chain of beauty shops;
- 3-24 (3) one member who holds a private beauty culture
- 3-25 school license;
- 3-26 (4) two members who each hold an operator license;
- 3-27 (5) one member who represents a licensed public
- 3-28 secondary or postsecondary beauty culture school; ~~[and]~~
- 3-29 (6) one member who represents a licensed public
- 3-30 secondary beauty culture school; and
- 3-31 (7) two ~~[one]~~ public members ~~[member]~~.

3-32 (b) ~~The associate commissioner [for occupational education~~
3-33 ~~and technology] of the Texas Education Agency responsible for~~
3-34 career and technical education or the associate commissioner's
3-35 authorized representative shall serve as an ex officio member of
3-36 the commission without voting privileges.

3-37 SECTION 10. Section 1602.251(c), Occupations Code, is
3-38 amended to read as follows:

3-39 (c) A person licensed by the department may practice
3-40 cosmetology only at a facility operated by a person holding a beauty
3-41 shop license, specialty shop license, private beauty culture school
3-42 license, or other license issued by the department.

3-43 SECTION 11. Section 1602.258, Occupations Code, is amended
3-44 to read as follows:

3-45 Sec. 1602.258. ELIGIBILITY FOR A HAIR BRAIDING SPECIALTY
3-46 CERTIFICATE. (a) A person holding a hair braiding specialty
3-47 certificate may perform only the practice of cosmetology defined in
3-48 Section 1602.002(a)(2) ~~[Sections 1602.002(a)(2) through (4)]~~.

3-49 (b) To be eligible for a hair braiding specialty
3-50 certificate, an applicant must:

- 3-51 (1) be at least 17 years of age; and
- 3-52 (2) have the necessary requisites as determined by the
- 3-53 department in the particular specialty for which certification is
- 3-54 sought, including training through a commission-approved training
- 3-55 program.

3-56 SECTION 12. Subchapter F, Chapter 1602, Occupations Code,
3-57 is amended by adding Sections 1602.259 and 1602.260 to read as
3-58 follows:

3-59 Sec. 1602.259. ELIGIBILITY FOR A HAIR WEAVING SPECIALTY
3-60 CERTIFICATE. (a) A person holding a hair weaving specialty
3-61 certificate may perform only the practice of cosmetology defined in
3-62 Sections 1602.002(a)(2), (3), and (13).

3-63 (b) To be eligible for a hair weaving specialty certificate,
3-64 an applicant must:

- 3-65 (1) be at least 17 years of age; and
- 3-66 (2) have the necessary requisites as determined by the
- 3-67 department in the particular specialty for which certification is
- 3-68 sought, including training through a commission-approved training
- 3-69 program.

Sec. 1602.260. ELIGIBILITY FOR A WIG SPECIALTY CERTIFICATE.

4-2 (a) A person holding a wig specialty certificate may perform only
4-3 the practice of cosmetology defined in Section 1602.002(a)(4).

4-4 (b) To be eligible for a wig specialty certificate, an
4-5 applicant must:

4-6 (1) be at least 17 years of age; and

4-7 (2) have the necessary requisites as determined by the
4-8 department in the particular specialty for which certification is
4-9 sought, including training through a commission-approved training
4-10 program.

4-11 SECTION 13. Section 1602.266, Occupations Code, is amended
4-12 by adding Subsection (c) to read as follows:

4-13 (c) A person holding a student permit may shampoo or
4-14 condition a person's hair in a facility licensed under this chapter
4-15 or Chapter 1603.

4-16 SECTION 14. Section 1602.267, Occupations Code, is amended
4-17 by adding Subsection (f) to read as follows:

4-18 (f) This section applies only to a person who holds a permit
4-19 under this section issued to the person before September 1, 2013.

4-20 SECTION 15. Section 1602.301, Occupations Code, is amended
4-21 by amending Subsection (b) and adding Subsection (c) to read as
4-22 follows:

4-23 (b) A person may not operate a vocational cosmetology
4-24 program in a public school or lease space on the premises of a
4-25 beauty shop, specialty shop, or dual shop to engage in the practice
4-26 of cosmetology as an independent contractor unless the person holds
4-27 a license issued under this chapter.

4-28 (c) A person who owns, operates, or manages a beauty shop,
4-29 specialty shop, or dual shop may employ a person holding a student
4-30 permit under Section 1602.266 to shampoo or condition a person's
4-31 hair.

4-32 SECTION 16. Section 1602.354(a), Occupations Code, is
4-33 amended to read as follows:

4-34 (a) The commission will by rule recognize, prepare, or
4-35 administer continuing education programs for the practice of
4-36 cosmetology. Participation in the programs is mandatory for all
4-37 license renewals other than renewal of a shampoo specialty
4-38 certificate.

4-39 SECTION 17. Section 1602.403(c), Occupations Code, is
4-40 amended to read as follows:

4-41 (c) A person holding a beauty shop license or specialty shop
4-42 license may not employ:

4-43 (1) a person as an operator or specialist or lease to a
4-44 person who acts as an operator or specialist unless the person holds
4-45 a license or certificate under this chapter or under Chapter 1601;
4-46 or

4-47 (2) a person to shampoo or condition a person's hair
4-48 unless the person holds a shampoo apprentice permit or student
4-49 permit.

4-50 SECTION 18. Subchapter I, Chapter 1602, Occupations Code,
4-51 is amended by adding Section 1602.407 to read as follows:

4-52 Sec. 1602.407. SERVICE AT UNLICENSED LOCATION. (a) In
4-53 this section, "licensed facility" means the premises of a place of
4-54 business that holds a license, certificate, or permit under this
4-55 chapter or Chapter 1603.

4-56 (b) A person holding a license, certificate, or permit under
4-57 this chapter may perform a service within the scope of the license,
4-58 certificate, or permit at a location other than a licensed facility
4-59 for a client who, because of illness or physical or mental
4-60 incapacitation, is unable to receive the services at a licensed
4-61 facility.

4-62 (c) An appointment for a service performed under this
4-63 section must be made through a licensed facility.

4-64 SECTION 19. Section 1602.451(a), Occupations Code, is
4-65 amended to read as follows:

4-66 (a) The holder of a private beauty culture school license
4-67 shall:

4-68 (1) maintain a sanitary establishment;

4-69 (2) maintain on duty one [~~full-time~~] licensed

- 5-1 instructor for each 25 students in attendance;
 5-2 (3) maintain a daily record of students' attendance;
 5-3 (4) establish regular class and instruction hours and
 5-4 grades;
 5-5 (5) require a school term of not less than nine months
 5-6 and not less than 1,500 hours instruction for a complete course in
 5-7 cosmetology;
 5-8 (6) require a school term of not less than 600 hours
 5-9 instruction for a complete course in manicuring;
 5-10 (7) hold examinations before issuing diplomas;
 5-11 (8) maintain a copy of the school's curriculum in a
 5-12 conspicuous place and verify that the curriculum is being followed;
 5-13 (9) publish in the school's catalogue and enrollment
 5-14 contract a description of the refund policy required under Section
 5-15 1602.458; and
 5-16 (10) provide the department with information on:
 5-17 (A) the current course completion rates of
 5-18 students who attend a course of instruction offered by the school;
 5-19 and
 5-20 (B) job placement rates and employment rates of
 5-21 students who complete the course of instruction.

5-22 SECTION 20. Section 1602.456, Occupations Code, is amended
 5-23 by adding Subsection (b-1) to read as follows:

5-24 (b-1) A private beauty culture school or public school in
 5-25 which a student permit holder is enrolled may not receive
 5-26 compensation for services performed under Section 1602.266(c).

5-27 SECTION 21. Subchapter E, Chapter 1603, Occupations Code,
 5-28 is amended by adding Section 1603.207 to read as follows:

5-29 Sec. 1603.207. MINI-SALONS AND MINI-BARBERSHOPS. (a) In
 5-30 this section, "mini-salon or mini-barbershop" includes a room or
 5-31 suite of rooms that is one of a number of connected establishments
 5-32 in a single premises that open onto a common hallway or another
 5-33 configuration of operations as determined by commission rule in
 5-34 which a person practices barbering or cosmetology under a license,
 5-35 certificate, or permit issued under this chapter, Chapter 1601, or
 5-36 Chapter 1602.

5-37 (b) The commission may adopt rules for the:
 5-38 (1) licensing, permitting, operation, inspection, and
 5-39 reporting requirements of a mini-salon or mini-barbershop;
 5-40 (2) fees required to issue or renew a license or permit
 5-41 for or to inspect a mini-salon or mini-barbershop; and
 5-42 (3) sanitation standards required for a mini-salon or
 5-43 mini-barbershop.

5-44 (c) A mini-salon or mini-barbershop licensed, certified, or
 5-45 permitted under this section must meet the requirements of a
 5-46 barbershop, beauty shop, dual shop, or specialty shop licensed,
 5-47 certified, or permitted under this chapter, Chapter 1601, or
 5-48 Chapter 1602.

5-49 SECTION 22. Section 1603.256(c), Occupations Code, is
 5-50 amended to read as follows:

5-51 (c) The following persons may administer a practical
 5-52 examination required under this subchapter:

- 5-53 (1) the department; or
 5-54 (2) a person with whom the department contracts under
 5-55 Section 1603.252 [~~or~~
 5-56 [~~(3) an examination proctor~~].

5-57 SECTION 23. Section 1603.351, Occupations Code, is amended
 5-58 to read as follows:

5-59 Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE
 5-60 EDUCATION. (a) The commission shall prescribe the minimum
 5-61 curriculum, including the subjects and the number of hours in each
 5-62 subject, taught by a school licensed under this chapter, Chapter
 5-63 1601, or Chapter 1602 [~~, including a private beauty culture school~~
 5-64 ~~or a vocational cosmetology program in a public school~~].

5-65 (b) The commission may adopt rules allowing distance
 5-66 education only for the theory portion of the curriculum taught by a
 5-67 school licensed under this chapter, Chapter 1601, or Chapter 1602.

5-68 (c) Distance education does not satisfy the requirements of
 5-69 the practical portion of the curriculum taught by a school licensed

6-1 under this chapter, Chapter 1601, or Chapter 1602.

6-2 SECTION 24. The following sections of the Occupations Code
6-3 are repealed:

- 6-4 (1) Sections 1601.261(b) and (e);
- 6-5 (2) Sections 1602.267(b) and (e);
- 6-6 (3) Section 1603.153;
- 6-7 (4) Section 1603.251; and
- 6-8 (5) Section 1603.257.

6-9 SECTION 25. (a) A person holding a shampoo specialty
6-10 certificate under Section 1602.258, Occupations Code, on the
6-11 effective date of this Act may continue to provide services under
6-12 and renew the certificate as provided by Chapter 1602, Occupations
6-13 Code.

6-14 (b) The Texas Department of Licensing and Regulation may not
6-15 issue an original shampoo specialty certificate on or after
6-16 September 1, 2013.

6-17 (c) A person holding a shampoo apprentice permit under
6-18 Section 1601.261 or 1602.267, Occupations Code, on the effective
6-19 date of this Act may continue to provide services under the permit
6-20 as provided by Chapter 1601 or 1602, Occupations Code, as
6-21 appropriate.

6-22 (d) The Texas Department of Licensing and Regulation may not
6-23 issue an original shampoo apprentice permit on or after September
6-24 1, 2013.

6-25 SECTION 26. Not later than May 1, 2014, the Texas Commission
6-26 of Licensing and Regulation shall adopt rules to implement Section
6-27 1603.207, Occupations Code, as added by this Act, and Section
6-28 1603.351, Occupations Code, as amended by this Act.

6-29 SECTION 27. This Act takes effect September 1, 2013.

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